

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

OFFICER-INVOLVED SHOOTING – 085-06

Division	Date	Duty-On (X) Off()	Uniform-Yes() No(X)
Newton	10/06/2006		

Officer(s) Involved in Use of Force	Length of Service
Detective A	17 years, 11 months
Detective B	24 years, 9 months

Reason for Police Contact

Detectives A and B were sitting in their vehicle conducting a surveillance when Subject 1 approached them, asked where they were from and opened fire on the detectives. Detective A returned fire.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: male, 30 years.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department command staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on July 31, 2007.

Incident Summary

On the evening of October 6, 2006, Detectives A and B were working on a surveillance operation and were assigned as a peripheral chase unit on the surveillance detail. The detectives were attired in plainclothes and were deployed in a plain vehicle with Detective B driving and Detective A as the passenger. The detectives parked their vehicle on a street corner. Detective A had his passenger side window rolled all the way down.

A few minutes after the detectives parked their vehicle, Detective A observed a gold vehicle arrive and park on the corner across from their plain vehicle. Detective A had seen this vehicle three times earlier during the night driving up and down and making various U-turns. Detective B had seen the same vehicle approximately half a dozen times in the immediate area within the previous hour. There was no discussion between the detectives of these observations.

Note: The detectives did not notify Communications Division (CD) of their location.

Two male occupants (one of whom was Subject 1) exited the gold vehicle. Subject 1 walked toward the detectives, who were still seated inside their vehicle. When he reached the sidewalk area Subject 1 said something to the effect of "Hey man, where you from?" while simultaneously moving his shirt exposing his waistband and removing a dark colored handgun. Subject 1 then pointed the handgun at Detective A and fired from a distance of approximately 15 feet. Detective A yelled "police" and "gun" and drew his pistol and fired 14 rounds from his seated position. Subject 1 went down to the sidewalk while continuing to fire at Detective A. After Subject 1 hit the ground, he ceased firing. Detective A believed Subject 1 fired approximately five rounds.

Detective A dropped his pistol to the vehicle floorboard and unholstered a second pistol. As he was doing so, Detective A heard gunshots from a driveway of a residence to his right. Detective A observed muzzle flash coming from that direction and Detective A indicated that he could clearly see a person firing at him. Still seated in his vehicle, Detective A focused his attention on this person and returned fire. From Detective A's peripheral vision, he saw Subject 1 get off from the ground, run towards the unidentified subject, and take a position on the driveway approximately 10 to 15 feet from the unidentified subject. Detective A then saw Subject 1 fire additional rounds in the detectives' direction. Detective A engaged both subjects and continued to fire until the subjects' gunfire stopped. Having expended all 14 rounds from the second pistol, Detective A dropped the weapon to the vehicle floorboard. As soon as the subjects in the driveway stopped shooting, they ran towards the residence and out of his view.

Meanwhile, as the subjects fired at the detectives' vehicle, Detective B drew his weapon and exited the driver's side of the vehicle to reposition toward the rear left quarter panel of his vehicle for cover. However, as Detective B moved toward the rear of his vehicle, he observed muzzle flash coming from behind him and believed at least one additional subject was firing at him and his partner from that direction. Detective B's primary concern at that point was to get to the radio to "put out a broadcast to let people know where we were at." To accomplish this, Detective B had to return to the driver's side seat to activate the vehicle's radio. Detective B broadcast, "We got shots fired." When another unit responded, "What do you got?" Detective B stated, "Let's make it a help call."

Detective A heard the gunfire coming from behind him. Detective A exited his vehicle and, armed with a rifle, which had been stowed in the rear seat of the vehicle,

shouldered the weapon. Detective A saw muzzle flashes coming from a subject secreted behind or near a van. Detective A also heard Detective B yell that there were subjects to the north.

Note: The lighting at that location was very poor. As a result, the detectives could not determine whether more than one subject was firing at them from the north.

Detective A returned fire in the direction where he saw the muzzle flashes were coming from. The unidentified subject's gunfire moved further away then eventually ceased. When the subject's fire ceased, Detective A also ceased fire. Detective A fired a total of five rounds from his rifle.

CD broadcast a shooting in progress and provided the location.

Note: Detective C was at the police station when he received Detective B's broadcast of "shots fired", responded, and arrived at the scene approximately two minutes after the initial broadcast was made. While en route to the scene, Detective C advised CD to inform all units responding to the incident that there may be plainclothes officers at the scene and to use caution. Detective C was not aware that Detectives A and B had been involved in an officer involved shooting until after he responded to the scene.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC make specific findings in the following areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a pistol by any involved officer(s); the Use of Force by any involved officer(s) and any additional pertinent issues. All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve the response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Detectives A, B, and C's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC found Detectives A and B's drawing to be in policy.

C. Use of Force

The BOPC found Detective A's use of lethal force to be in policy.

Basis for Findings

A. Tactics

The BOPC noted that although Detectives A and B displayed extreme courage, there were areas that the BOPC identified that warrant further consideration for improvement should they or members of their unit be confronted with a similar situation in the future.

The BOPC noted that there were no notifications made to the Area Watch Commander or CD relative to the presence of the plainclothes personnel working in the area. This created a circumstance where the uniform personnel responding to reports of the "shooting-in-progress" were unaware of the potential involvement of plainclothes personnel.

The surveillance personnel were working solely on a Citywide Tactical Frequency. Although Detective C broadcast over the Base Frequency that there may be plainclothes personnel at-scene and to use caution, this was not accomplished until approximately two minutes after CD broadcast the "shooting-in-progress" radio call. The surveillance personnel working solely on a tactical frequency resulted in the delay of responding uniformed personnel receiving the pertinent information regarding the potential presence of plainclothes personnel.

Detectives A and B were assigned as a peripheral chase unit on the surveillance detail. Although additional personnel were strategically positioned in the surrounding area, they were not apprised of the specific location of the operational personnel assets. In an effort to maximize officer safety and operational efficiency, the BOPC noted that it would be prudent to provide a periodic situation report to update the tactical positions of personnel.

The BOPC will direct Detectives A, B, and C's Commanding Officer to evaluate and establish protocols and procedures associated with the notifications and communications during surveillance operations.

Detective A emptied and discarded two pistols before acquiring the rifle from the rear seat. Although the BOPC supported the decision to opt for a more effective weapon system, it would have been prudent and more consistent with training standards to reload his pistol. The decision to not reload his pistol(s) created the circumstance where Detective A would have been rendered weaponless had the rifle malfunctioned.

Once Detective B made his way back into the vehicle, he broadcast, "We got shots fired." An unknown officer responded by stating "What do you got?" Detective B then broadcast, "Let's make it a help call." Although both detectives were clearly under fire

from different locations and understandably engaged in a life threatening situation, the BOPC would have preferred that Detective B's initial broadcast was an "officer needs help" call.

The BOPC found Detectives A, B, and C's tactics to warrant formal training.

B. Drawing/Exhibition/Holstering

The BOPC noted that Detectives A and B were seated in their police vehicle when an armed subject confronted them. The subject raised his handgun and began firing at the detectives. In preparation to confront the deadly threat, Detective A drew his pistol from a holster secured between the front passenger seat and the front center console. Detective B exited the vehicle and in preparation to confront the deadly threat, drew his pistol.

Detective A's first pistol ran out of ammunition as the ambush continued. Detective A drew a second pistol from his belt holster that was secured to his right waistband. Detective A's second pistol ran out of ammunition at which time he heard gunfire coming from the street north of his location, and heard Detective B yell that there were subjects to the north. Detective A retrieved a rifle from the rear seat of his vehicle and deployed it.

The BOPC determined that the detectives reasonably believed the situation had escalated to the point where deadly force was justified.

The BOPC found Detectives A and B's drawing to be in policy.

C. Lethal Use of Force

The BOPC noted that Subject 1 pointed a handgun at the unsuspecting detectives and fired several rounds in their direction. Upon seeing the handgun, Detective A yelled "police" and then "gun." Fearing he and Detective B were about to be shot and killed, Detective A drew his pistol and fired 14 rounds at Subject 1 emptying his pistol.

As Detective A drew his second pistol, he observed the silhouette of an individual and muzzle flashes along with gunshots coming from the driveway of the residence to his right. In immediate defense of his life and the life of his partner, Detective A returned fire. He simultaneously observed Subject 1 rise to his feet and flee into the same driveway. Once Subject 1 reached the driveway area, he stood approximately 15 feet south of the second subject and again started firing at both detectives. Detective A continued to return fire at the subjects from a distance of approximately 65 feet emptying his pistol of 14 rounds. Both subjects subsequently fled out of Detective A's view.

Simultaneously, Detective A heard gunfire coming from the street north of his location and heard Detective B yell that there were more subjects to the north. Detective A

exited his vehicle and retrieved a rifle, which was secured in the rear seat of his vehicle. Detective A observed muzzle flashes and heard gunfire coming from a position northeast of his location. Detective A noted that Detective B was out of their vehicle and pinned down at the rear with no cover. Believing that the subject to the north was trying to kill him and his partner, Detective A stood outside the passenger door of his vehicle and fired five rounds from the rifle at the subject. The unknown subject ceased his attack and fled.

The BOPC determined that Detective A reasonably believed that Subject 1 and the additional unknown subjects presented an immediate threat of serious bodily injury or death.

The BOPC found Detective A's use of lethal force to be in policy.